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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
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11 DAVID WIT, et al.,
12 Plaintiffs,
13 vs.
14 UNITED BEHAVIORAL HEALTH,
Defendant.

Case No. 14-cv-02346-JCS
Related Case No. 14-cv-05337-JCS

**SPECIAL MASTER'S SEVENTH STATUS
REPORT**

15 GARY ALEXANDER, et al.,
16 Plaintiffs,
17 vs.
18 UNITED BEHAVIORAL HEALTH,
Defendant.

The Hon. Joseph C. Spero

Pursuant to General Provision No. 5 of the Order Appointing Special Master (ECF No. 528), the Special Master files this report describing his activities since his last Status Report dated January 24, 2022. As required by General Provision No. 5, prior to filing this report, the Special Master provided a draft to the parties to provide them with an opportunity to review it for accuracy. The parties have not reviewed Section I of the report, which has been added following the Ninth Circuit Court of Appeals' Memorandum disposition (ECF No. 538) filed on March 22, 2022.

I. The Ninth Circuit's Memorandum Disposition

In light of the Ninth Circuit's Memorandum disposition, the Special Master is suspending work pending further notification from the Court and/or the parties. The Special Master also has directed the psychiatric and fiduciary experts to suspend work pending further developments. The Special Master remains available to the Court and/or the parties if the Special Master can be of assistance, including with regard to the parties' efforts to fulfill the terms of the orders issued and agreements reached in connection with the Special Master's efforts to oversee UBH's compliance with the Remedies Order dated November 3, 2020. Below, the Special Master reports the status of his work at the time of the Ninth Circuit's Memorandum disposition.

II. UBH's Compliance with the Remedies Order

As noted in the Sixth Status Report (ECF No. 573), the Special Master's Implementation Order was filed on December 3, 2021 and became final on January 19, 2022. The Special Master's January 20, 2022 Order Regarding Plaintiffs' September 24, 2021 Letter ("Order on September 24, 2021 Letter") became final on March 7, 2022. No party appealed either order.

On March 1, 2022, UBH submitted a letter regarding its compliance with the Implementation Order. In its letter, UBH indicated that it had complied with the Special Master's directions under Sections IV.1.a, c, d, e & h of the Implementation Order to revise its internal policy and training documents and provided materials reflecting its proposed revisions. On March 10, 2022, Plaintiffs responded to UBH's letter, raising issues with certain of the proposed revised materials. The Special Master, with the assistance of Dr. Gastfriend and Dr. Minkoff, has been

1 reviewing the parties' submissions, including revised internal materials provided by UBH, and
 2 was anticipating discussing any outstanding issues at a future conference with the parties.

3 In its March 1 letter, UBH also requested an extension until April 1, 2022 to: complete
 4 meet and confer regarding certain sampling directed by the Implementation Order ("Departures"
 5 from the Guidelines and denials of coverage at ASAM Levels 3.1 and 3.3 since November 3,
 6 2020); and submit a supplemental report regarding the parties' meet and confer regarding
 7 reconfiguration of UBH's Clinical Documentation Tool. The Special Master granted these
 8 requests.¹

9 Pursuant to the Special Master's Order on September 24, 2021 Letter, the parties were
 10 directed to report by April 18, 2022 the results of their meet and confer regarding sampling of
 11 UBH's denials of requests for coverage at Level 3.2-WM since November 3, 2020. UBH
 12 indicated in its March 1 letter that the parties' meet and confer discussions regarding sampling
 13 include discussions on sampling denials of requests for coverage at Level 3-2 WM.

14 **III. Ongoing Clinical Guidelines Training and Fiduciary Training Plan**

15 As noted in the Special Master's Sixth Status Report on January 24, 2022, UBH proposed
 16 a revised plan for training newly hired personnel and refreshing the training of existing employees,
 17 as required by Sections IV.B.2.c and IV.B.3.c of the Remedies Order. On January 28, 2022, the
 18 Special Master discussed the plan with the parties, including the need for testing to ensure the
 19 effectiveness of the training, and indicated that the parties should jointly submit a final plan and
 20 proposed order approving the plan. UBH submitted a revised plan on March 18, 2022.

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 25 ¹ The Implementation Order further required the parties to complete meet and confer
 26 regarding sampling of UBH's coverage determinations using the Clinical Documentation Tool
 27 since November 3, 2020. Although UBH did not address the status of the meet and confer
 28 regarding this sampling in its March 1 letter, UBH has now indicated that the parties' ongoing
 meet and confer discussions encompass this issue as well and UBH also will report on the meet
 and confer for this sampling by April 1, 2022. The Special Master does not know whether or how
 the Ninth Circuit's Memorandum disposition may affect this commitment.

1 Dated: March 23, 2022

Respectfully submitted,

2 FARELLA BRAUN + MARTEL LLP

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4 By: /s/ Douglas R. Young
5 Douglas R. Young
6 Special Master
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